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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,384	06/19/2001	Frank L. Politano	107833	1064
28070	7590	09/05/2006		
OLIFF & BERRIDGE P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER HARBECK, TIMOTHY M	
			ART UNIT 3628	PAPER NUMBER

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/883,384		POLITANO, FRANK L.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Timothy M. Harbeck		3628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 7, 9-14, 16, 17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, 9-14, 16-17, and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-7, 9-14, 16-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe (US 2002/0198803 A1) in view of Fernandez-Holmann (US 5,787,404).

**Re Claim 1:** Rowe discloses a method and apparatus for facilitating monetary and commercial transactions and for providing consumer reward programs comprising

- Depositing value as principal corresponding to a consumed item of a supplier and;
- Accruing earned value based on the principal and a rate (Page 1; paragraphs 0010-0013; specifically note the American Express Platinum Cash Rebate Cards which gives 2% cash back on purchases)

Rowe does not explicitly disclose further accruing earned value based on a prior accrued earned value.

Fernandez-Holmann discloses a credit-card based retirement fund system and method wherein use of a credit card are utilized to fund an investment account with a financial institution such as a bank, savings and loan association or mutual fund (Column 2 line 56-Column 3 line 4). These types of accounts, specifically when

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directed toward retirement funds, accrue earned value based on a prior accrued earned value, or in other words utilize the power of compound interest to build up funds. It would have been obvious to a person of ordinary skill in the art at the time of invention to modify Rowe to include the teachings of Fernandez-Holmann so that a user of the method can take full advantage of the principles of compounding to achieve a larger gain than by simply adding funds on top of one another without interest.

**Re Claim 2:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rowe further discloses the steps comprising

- Maintaining an account for a consumer that consumed the consumed item (paragraphs 0023-0027)
- Permitting withdrawal of the earned value based on terms of an agreement for the account (paragraphs 0028-0029)

**Re Claim 3:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rowe further discloses the steps comprising

- Updating the principal based on one or more deposits of consumed items (Paragraph 0148) and;
- Generating a balance of accrued earned value on a schedule based on the agreement (paragraph 0148)

**Re Claim 4:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rowe discloses the claimed method supra and further discloses the step wherein the account comprises one or more or a savings consumable account, a certificate of deposit and a mutual consumable fund (Paragraphs 0046-0051).

**Re Claim 6:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rowe further discloses the steps comprising receiving information from one or more suppliers and updating consumer accounts based on the received information (paragraph 0137)

**Re Claim 7:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rower discloses the claimed method supra and further discloses the steps wherein the information comprising one or more of:

- One or more new rates to replace rates for one or more consumer accounts
- One or more new consumer accounts
- One or more new maturation dates to replace current maturation dates and;
- One or more principals updates to increment or decrement current principals and;
- One or more earned values to increment or decrement current earned values (paragraphs 0137 and paragraph 0159).

**Re Claim 9:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rowe discloses the claimed method supra and further discloses the steps comprising on or more of

- Transferring principal from a consumer account to another consumer account
- Withdrawing earned value from a consumer account and;

- Changing parameters of a consumer account (Paragraph 0163-0164)

**Re Claim 10:** Rowe in view of Fernandez-Holmann discloses the claimed method and Rowe further discloses the steps wherein the principal comprising one or a combination of two or more of:

- Value corresponding to consumed items
- A number of times purchases were made
- A number of times a supplier was visited
- A value for consumed items based on a table of values corresponding to items and;
- A value corresponding to an amount spent during a period of time  
(paragraphs 0010-0013)

**Re Claims 11-14, 16-17 and 19-20:** Further system claims would have been obvious to perform previously rejected method claims 1-4, 6-7 and 9-10 respectively and are therefore rejected using the same art and rationale (Also see fig 2A for system layout).

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Fernandex Holmann in view of Bloom (Jennifer Kingson Bloom. "New B or A Card Offers Discounts on Bank Products. American Banker. New York, N.Y.: Dec 1, 1997. Vol162, Iss. 229: pg 23 (3 page)).

**Re Claim 21:** Rowe in view of Fernandez-Holmann discloses the claimed method supra but does not explicitly disclose the step of reducing accrued earned value based on a predetermined condition. Bloom discloses a credit card rewards

program that contains tiered levels of rewards, in this case a reduction of interest rates on the card balance, based upon the total expenditures of the card (Page 2, paragraphs 8-11). Essentially if a customer spends more money on their card, then the interest rate on that balance will be reduced. It follows then that if certain preconditions were not met (i.e. level of expenditure) than the earned value will be reduced. It would have been obvious to anyone skilled in the ordinary art at the time of invention to include the teachings of Bloom to the method of Rowe in order to entice people to spend more money on their credit card, thus providing the issuer of the card with higher revenues. A flat reward rate provides no incentive to spend more, however increasing the rewards in lockstep with expenditures might entice the credit card holders to spend more in order to achieve the higher rewards.

**Re Claim 22:** Rowe in view of Fernandez-Holmann in view of Bloom discloses the claimed method supra and Bloom further discloses the step further comprising wherein the predetermined condition includes one or more of: if a consumer of an account does not consume a predetermined amount of a consumable item and if a consumable item from another supplier is consumed. Bloom points out that a customer who does not consume a certain amount of purchases will not achieve the highest rewards. In other words, if certain threshold expenditure values are not met, the higher set of rewards is not activated.

**Re Claims 23 and 24:** Further system claims would have been obvious from previously rejected method claims 21 and 22 respectively and are therefore rejected using the same art and rationale.

***Response to Arguments***

Applicant's arguments filed 06/21/2006 have been fully considered but they are not persuasive. The applicant has argued that Rowe does not explicitly disclose the amended limitations of accruing earned value based on a prior accrued earned value. The Fernandez-Holmann reference discloses this feature and has been included as a result. No further arguments were offered.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.

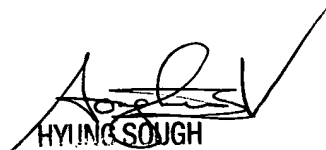


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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HYUNG SOUGH  
SUPERVISORY PATENT EXAMINER  
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